

111TH CONGRESS
1ST SESSION

H. R. 265

To target cocaine kingpins and address sentencing disparity between crack
and powder cocaine.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 2009

Ms. JACKSON-LEE of Texas introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To target cocaine kingpins and address sentencing disparity
between crack and powder cocaine.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Drug Sentencing Re-
5 form and Cocaine Kingpin Trafficking Act of 2009”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Cocaine base (commonly known as “crack
9 cocaine”) is made by dissolving cocaine hydro-

1 chloride (commonly known as “powder cocaine”) in
2 a solution of sodium bicarbonate (or a similar agent)
3 and water. Therefore, crack and powder cocaine are
4 simply different forms of the same substance and all
5 crack cocaine originates as powder cocaine.

6 (2) The physiological and psychotropic effects
7 of cocaine are similar regardless of whether it is in
8 the form of cocaine base (crack) or cocaine hydro-
9 chloride (powder).

10 (3) One of the principal objectives of the Anti-
11 Drug Abuse Act of 1986, which established different
12 mandatory minimum penalties for different drugs,
13 was to target Federal law enforcement and prosecu-
14 torial resources on serious and major drug traf-
15 fickers.

16 (4) In 1986, Congress linked mandatory min-
17 imum penalties to different drug quantities, which
18 were intended to serve as proxies for identifying of-
19 fenders who were “serious” traffickers (managers of
20 retail drug trafficking) and “major” traffickers
21 (manufacturers or the kingpins who headed drug or-
22 ganizations).

23 (5) Although drug purity and individual toler-
24 ance vary, making it difficult to state with specificity
25 the individual dose of each form of cocaine, 5 grams

1 of powder cocaine generally equals 25 to 50 indi-
2 vidual doses and 500 grams of powder cocaine gen-
3 erally equals 2,500 to 5,000 individual doses, while
4 5 grams of crack cocaine generally equals 10 to 50
5 individual doses (or enough for a heavy user to con-
6 sume in one weekend) and 500 grams of crack co-
7 caine generally equals 100 to 500 individual doses.

8 (6) In part because Congress believed that
9 crack cocaine had unique properties that made it in-
10 stantly addictive, the Anti-Drug Abuse Act of 1986
11 established an enormous disparity (a 100 to 1 pow-
12 der-to-crack ratio) in the quantities of powder and
13 crack cocaine that trigger 5- and 10-year mandatory
14 minimum sentences. This disparity permeates the
15 Sentencing Guidelines.

16 (7) Congress also based its decision to establish
17 the 100 to 1 quantity ratio on the beliefs that—

18 (A) crack cocaine distribution and use was
19 associated with violent crime to a much greater
20 extent than was powder cocaine;

21 (B) prenatal exposure to crack cocaine was
22 particularly devastating for children of crack
23 users;

24 (C) crack cocaine use was particularly
25 prevalent among young people; and

1 (D) crack cocaine's potency, low cost, and
2 ease of distribution and use were fueling its
3 widespread use.

4 (8) As a result, it takes 100 times more powder
5 cocaine than crack cocaine to trigger the 5- and 10-
6 year mandatory minimum sentences. While it takes
7 500 grams of powder cocaine to trigger the 5-year
8 mandatory minimum sentence, it takes just 5 grams
9 of crack cocaine to trigger that sentence. Similarly,
10 while it takes 5 kilograms of powder cocaine to trig-
11 ger the 10-year mandatory minimum sentence, 50
12 grams of crack cocaine will trigger the same sen-
13 tence.

14 (9) Most of the assumptions on which the cur-
15 rent penalty structure was based have turned out to
16 be unfounded.

17 (10) Studies comparing usage of powder and
18 crack cocaine have shown that there is little dif-
19 ference between the two forms of the drug and fun-
20 damentally undermine the current quantity-based
21 sentencing disparity. More specifically, the studies
22 have shown the following:

23 (A) Both forms of cocaine cause identical
24 effects, although crack is smoked, while powder
25 cocaine is typically snorted. Epidemiological

1 data show that smoking a drug delivers it to
2 the brain more rapidly, which increases likeli-
3 hood of addiction. Therefore, differences in the
4 typical method of administration of the two
5 forms of the drug, and not differences in the in-
6 herent properties of the two forms of the drug,
7 make crack cocaine potentially more addictive
8 to typical users than powder cocaine. Both
9 forms of the drug are addictive, however, and
10 the treatment protocol for the drug is the same
11 regardless of the form of the drug the patient
12 has used.

13 (B) Violence committed by crack users is
14 relatively rare, and overall violence has de-
15 creased for both powder and crack cocaine of-
16 fenses. Almost all crack-related violence is sys-
17 temic violence that occurs within the drug dis-
18 tribution process. Sentencing enhancements are
19 better suited to punish associated violence,
20 which are separate, pre-existing crimes in and
21 of themselves.

22 (C) The negative effects of prenatal expo-
23 sure to crack cocaine were vastly overstated.
24 They are identical to the effects of prenatal ex-
25 posure to powder cocaine and do not serve as

1 a justification for the sentencing disparity be-
2 tween crack and powder.

3 (D) Although Congress in the mid-1980s
4 was understandably concerned that the low-cost
5 and potency of crack cocaine would fuel an epi-
6 demic of use by minors, the epidemic of crack
7 cocaine use by young people never materialized
8 to the extent feared. In fact, in 2005, the rate
9 of powder cocaine use among young adults was
10 almost 7 times as high as the rate of crack co-
11 caine use. Furthermore, sentencing data sug-
12 gest that young people do not play a major role
13 in crack cocaine trafficking at the Federal level.

14 (E) The current 100 to 1 penalty structure
15 undermines various congressional objectives set
16 forth in the Anti-Drug Abuse Act of 1986.
17 Data collected by the United States Sentencing
18 Commission show that Federal resources have
19 been targeted at offenders who are subject to
20 the mandatory minimum sentences, which
21 sweep in low-level crack cocaine users and deal-
22 ers.

23 (11) In 1988, Congress set a mandatory min-
24 imum sentence for mere possession of crack cocaine,
25 the only controlled substance for which there is a

1 mandatory minimum sentence for simple possession
2 for a first-time offender.

3 (12) Major drug traffickers and kingpins traffic
4 in powder, not crack.

5 (13) Contrary to Congress's objective of focus-
6 ing Federal resources on drug kingpins, the majority
7 of Federal powder and crack cocaine offenders are
8 those who perform low level functions in the supply
9 chain.

10 (14) As a result of the low-level drug quantities
11 that trigger lengthy mandatory minimum penalties
12 for crack cocaine, the concentration of lower level
13 Federal offenders is particularly pronounced among
14 crack cocaine offenders, more than half of whom
15 were street level dealers in 2005.

16 (15) The Departments of Justice, Treasury,
17 and Homeland Security are the agencies with the
18 greatest capacity to investigate, prosecute, and dis-
19 mantle the highest level of drug trafficking organiza-
20 tions, but investigations and prosecutions of low-
21 level offenders divert Federal personnel and re-
22 sources from the prosecution of the highest-level
23 traffickers, for which such agencies are best suited.

24 (16) The unwarranted sentencing disparity not
25 only overstates the relative harmfulness of the two

1 forms of the drug and diverts Federal resources
2 from high-level drug traffickers, but it also dis-
3 proportionately affects the African-American com-
4 munity. According to the United States Sentencing
5 Commission’s May 2007 Report, 82 percent of Fed-
6 eral crack cocaine offenders sentenced in 2006 were
7 African-American, while 8 percent were Hispanic
8 and 8 percent were White.

9 (17) Only 13 States have sentencing laws that
10 distinguish between powder and crack cocaine.

11 **SEC. 3. COCAINE SENTENCING DISPARITY ELIMINATION.**

12 (a) CSA.—Section 401(b)(1) of the Controlled Sub-
13 stances Act (21 U.S.C. 841(b)(1)) is amended—

14 (1) in subparagraph (A)(iii), by striking “50
15 grams” and inserting “5 kilograms”; and

16 (2) in subparagraph (B)(iii), by striking “5
17 grams” and inserting “500 grams.”

18 (b) IMPORT AND EXPORT ACT.—Section 1010(b) of
19 the Controlled Substances Import and Export Act (21
20 U.S.C. 960(b)) is amended—

21 (1) in paragraph (1)(C), by striking “50
22 grams” and inserting “5 kilograms”; and

23 (2) in paragraph (2)(C), by striking “5 grams”
24 and inserting “500 grams”.

1 **SEC. 4. ELIMINATION OF MANDATORY MINIMUM FOR SIM-**
2 **PLE POSSESSION.**

3 Section 404(a) of the Controlled Substances Act (21
4 U.S.C. 844(a)) is amended by striking the sentence begin-
5 ning “Notwithstanding the preceding sentence,”.

6 **SEC. 5. INCREASED EMPHASIS ON CERTAIN AGGRAVATING**
7 **AND MITIGATING FACTORS.**

8 Pursuant to its authority under section 994 of title
9 28, United States Code, the United States Sentencing
10 Commission shall review and, if appropriate, amend the
11 sentencing guidelines to ensure that the penalties for an
12 offense involving trafficking of a controlled substance—

13 (1) provide tiered enhancements for the involve-
14 ment of a dangerous weapon or violence, including,
15 if appropriate—

16 (A) an enhancement for the use or
17 brandishment of a dangerous weapon;

18 (B) an enhancement for the use, or threat-
19 ened use, of violence; and

20 (C) any other enhancement the Commis-
21 sion considers necessary;

22 (2) adequately take into account the culpability
23 of the defendant and the role of the defendant in the
24 offense, including consideration of whether enhance-
25 ments should be added, either to the existing en-
26 hancements for aggravating role or otherwise, that

1 take into account aggravating factors associated
2 with the offense, including—

3 (A) whether the defendant committed the
4 offense as part of a pattern of criminal conduct
5 engaged in as a livelihood;

6 (B) whether the defendant is an organizer
7 or leader of drug trafficking activities involving
8 five or more persons;

9 (C) whether the defendant maintained an
10 establishment for the manufacture or distribu-
11 tion of the controlled substance;

12 (D) whether the defendant distributed a
13 controlled substance to an individual under the
14 age of 21 years of age or to a pregnant woman;

15 (E) whether the defendant involved an in-
16 dividual under the age of 18 years or a preg-
17 nant woman in the offense;

18 (F) whether the defendant manufactured
19 or distributed the controlled substance in a lo-
20 cation described in section 409(a) or section
21 419(a) of the Controlled Substances Act (21
22 U.S.C. 849(a) or 860(a));

23 (G) whether the defendant bribed, or at-
24 tempted to bribe, a Federal, State, or local law

1 enforcement officer in connection with the of-
2 fense;

3 (H) whether the defendant was involved in
4 importation into the United States of a con-
5 trolled substance;

6 (I) whether bodily injury or death occurred
7 in connection with the offense;

8 (J) whether the defendant committed the
9 offense after previously being convicted of a fel-
10 ony controlled substances offense; and

11 (K) any other factor the Commission con-
12 siders necessary; and

13 (3) adequately take into account mitigating fac-
14 tors associated with the offense, including—

15 (A) whether the defendant had minimum
16 knowledge of the illegal enterprise;

17 (B) whether the defendant received little or
18 no compensation in connection with the offense;

19 (C) whether the defendant acted on im-
20 pulse, fear, friendship, or affection when the de-
21 fendant was otherwise unlikely to commit such
22 an offense; and

23 (D) whether any maximum base offense
24 level should be established for a defendant who
25 qualifies for a mitigating role adjustment.

1 **SEC. 6. OFFENDER DRUG TREATMENT INCENTIVE GRANTS.**

2 (a) GRANT PROGRAM AUTHORIZED.—The Attorney
3 General shall carry out a grant program under which the
4 Attorney General may make grants to States, units of
5 local government, territories, and Indian tribes in an
6 amount described in subsection (c) to improve the provi-
7 sion of drug treatment to offenders in prisons, jails, and
8 juvenile facilities.

9 (b) REQUIREMENTS FOR APPLICATION.—

10 (1) IN GENERAL.—To be eligible to receive a
11 grant under subsection (a) for a fiscal year, an enti-
12 ty described in such subsection shall, in addition to
13 any other requirements specified by the Attorney
14 General, submit to the Attorney General an applica-
15 tion that demonstrates that, with respect to offend-
16 ers in prisons, jails, and juvenile facilities who re-
17 quire drug treatment and who are in the custody of
18 the jurisdiction involved, during the previous fiscal
19 year that entity provided drug treatment meeting
20 the standards established by the Single State Au-
21 thority for Substance Abuse (as that term is defined
22 in section 7(e)) for the relevant State to a number
23 of such offenders that is two times the number of
24 such offenders to whom that entity provided drug
25 treatment during the fiscal year that is 2 years be-

1 fore the fiscal year for which that entity seeks a
2 grant.

3 (2) OTHER REQUIREMENTS.—An application
4 under this section shall be submitted in such form
5 and manner and at such time as specified by the At-
6 torney General.

7 (c) ALLOCATION OF GRANT AMOUNTS BASED ON
8 DRUG TREATMENT PERCENT DEMONSTRATED.—The At-
9 torney General shall allocate amounts under this section
10 for a fiscal year based on the percent of offenders de-
11 scribed in subsection (b)(1) to whom an entity provided
12 drug treatment in the previous fiscal year, as dem-
13 onstrated by that entity in its application under that sub-
14 section.

15 (d) USES OF GRANTS.—A grant awarded to an entity
16 under subsection (a) shall be used—

17 (1) for continuing and improving drug treat-
18 ment programs provided at prisons, jails, and juve-
19 nile facilities of that entity; and

20 (2) to strengthen rehabilitation efforts for of-
21 fenders by providing addiction recovery support serv-
22 ices, such as job training and placement, education,
23 peer support, mentoring, and other similar services.

24 (e) REPORTS.—An entity that receives a grant under
25 subsection (a) during a fiscal year shall, not later than

1 the last day of the following fiscal year, submit to the At-
2 torney General a report that describes and assesses the
3 uses of such grant.

4 (f) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated \$10,000,000 to carry
6 out this section for each of fiscal years 2009 and 2010.

7 **SEC. 7. GRANTS FOR DEMONSTRATION PROGRAMS TO RE-**
8 **DUCE DRUG USE SUBSTANCE ABUSERS.**

9 (a) AWARDS REQUIRED.—The Attorney General may
10 make competitive grants to eligible partnerships, in ac-
11 cordance with this section, for the purpose of establishing
12 demonstration programs to reduce the use of alcohol and
13 other drugs by supervised substance abusers during the
14 period in which each such substance abuser is in prison,
15 jail, or a juvenile facility, and until the completion of pa-
16 role or court supervision of such abuser.

17 (b) USE OF GRANT FUNDS.—A grant made under
18 subsection (a) to an eligible partnership for a demonstra-
19 tion program, shall be used—

20 (1) to support the efforts of the agencies, orga-
21 nizations, and researchers included in the eligible
22 partnership, with respect to the program for which
23 a grant is awarded under this section;

1 (2) to develop and implement a program for su-
2 pervised substance abusers during the period de-
3 scribed in subsection (a), which shall include—

4 (A) alcohol and drug abuse assessments
5 that—

6 (i) are provided by a State-approved
7 program; and

8 (ii) provide adequate incentives for
9 completion of a comprehensive alcohol or
10 drug abuse treatment program, including
11 through the use of graduated sanctions;
12 and

13 (B) coordinated and continuous delivery of
14 drug treatment and case management services
15 during such period; and

16 (3) to provide addiction recovery support serv-
17 ices (such as job training and placement, peer sup-
18 port, mentoring, education, and other related serv-
19 ices) to strengthen rehabilitation efforts for sub-
20 stance abusers.

21 (c) APPLICATION.—To be eligible for a grant under
22 subsection (a) for a demonstration program, an eligible
23 partnership shall submit to the Attorney General an appli-
24 cation that—

1 (1) identifies the role, and certifies the involve-
2 ment, of each agency, organization, or researcher in-
3 volved in such partnership, with respect to the pro-
4 gram;

5 (2) includes a plan for using judicial or other
6 criminal or juvenile justice authority to supervise the
7 substance abusers who would participate in a dem-
8 onstration program under this section, including
9 for—

10 (A) administering drug tests for such
11 abusers on a regular basis; and

12 (B) swiftly and certainly imposing an es-
13 tablished set of graduated sanctions for non-
14 compliance with conditions for reentry into the
15 community relating to drug abstinence (whether
16 imposed as a pre-trial, probation, or parole con-
17 dition, or otherwise);

18 (3) includes a plan to provide supervised sub-
19 stance abusers with coordinated and continuous
20 services that are based on evidence-based strategies
21 and that assist such abusers by providing such abus-
22 ers with—

23 (A) drug treatment while in prison, jail, or
24 a juvenile facility;

1 (B) continued treatment during the period
2 in which each such substance abuser is in pris-
3 on, jail, or a juvenile facility, and until the com-
4 pletion of parole or court supervision of such
5 abuser;

6 (C) addiction recovery support services;

7 (D) employment training and placement;

8 (E) family-based therapies;

9 (F) structured post-release housing and
10 transitional housing, including housing for re-
11 covering substance abusers; and

12 (G) other services coordinated by appro-
13 priate case management services;

14 (4) includes a plan for coordinating the data in-
15 frastructures among the entities included in the eli-
16 gible partnership and between such entities and the
17 providers of services under the demonstration pro-
18 gram involved (including providers of technical as-
19 sistance) to assist in monitoring and measuring the
20 effectiveness of demonstration programs under this
21 section; and

22 (5) includes a plan to monitor and measure the
23 number of substance abusers—

24 (A) located in each community involved;

25 and

1 (B) who improve the status of their em-
2 ployment, housing, health, and family life.

3 (d) REPORTS TO CONGRESS.—

4 (1) INTERIM REPORT.—Not later than Sep-
5 tember 30, 2009, the Attorney General shall submit
6 to Congress a report that identifies the best prac-
7 tices relating to the comprehensive and coordinated
8 treatment of substance abusers, including the best
9 practices identified through the activities funded
10 under this section.

11 (2) FINAL REPORT.—Not later than September
12 30, 2010, the Attorney General shall submit to Con-
13 gress a report on the demonstration programs fund-
14 ed under this section, including on the matters spec-
15 ified in paragraph (1).

16 (e) DEFINITIONS.—In this section:

17 (1) ELIGIBLE PARTNERSHIP.—The term “eligi-
18 ble partnership” means a partnership that in-
19 cludes—

20 (A) the applicable Single State Authority
21 for Substance Abuse;

22 (B) the State, local, territorial, or tribal
23 criminal or juvenile justice authority involved;

24 (C) a researcher who has experience in evi-
25 dence-based studies that measure the effective-

1 ness of treating long-term substance abusers
2 during the period in which such abusers are
3 under the supervision of the criminal or juvenile
4 justice system involved;

5 (D) community-based organizations that
6 provide drug treatment, related recovery serv-
7 ices, job training and placement, educational
8 services, housing assistance, mentoring, or med-
9 ical services; and

10 (E) Federal agencies (such as the Drug
11 Enforcement Agency, the Bureau of Alcohol,
12 Tobacco, Firearms, and Explosives, and the of-
13 fice of a United States attorney).

14 (2) SUBSTANCE ABUSER.—The term “sub-
15 stance abuser” means an individual who—

16 (A) is in a prison, jail, or juvenile facility;

17 (B) has abused illegal drugs or alcohol for
18 a number of years; and

19 (C) is scheduled to be released from pris-
20 on, jail, or a juvenile facility during the 24-
21 month period beginning on the date the rel-
22 evant application is submitted under subsection
23 (c).

24 (3) SINGLE STATE AUTHORITY FOR SUBSTANCE
25 ABUSE.—The term “Single State Authority for Sub-

1 stance Abuse” means an entity designated by the
 2 Governor or chief executive officer of a State as the
 3 single State administrative authority responsible for
 4 the planning, development, implementation, moni-
 5 toring, regulation, and evaluation of substance abuse
 6 services in that State.

7 (f) AUTHORIZATION OF APPROPRIATIONS.—There
 8 are authorized to be appropriated to carry out this section
 9 \$5,000,000 for each of fiscal years 2009 and 2010.

10 **SEC. 8. EMERGENCY AUTHORITY FOR UNITED STATES SEN-**
 11 **TENCING COMMISSION.**

12 (a) IN GENERAL.—The United States Sentencing
 13 Commission, in its discretion, may—

14 (1) promulgate amendments pursuant to the di-
 15 rectives in this Act in accordance with the procedure
 16 set forth in section 21(a) of the Sentencing Act of
 17 1987 (Public Law 100–182), as though the author-
 18 ity under that Act had not expired; and

19 (2) pursuant to the emergency authority pro-
 20 vided in paragraph (1), make such conforming
 21 amendments to the Sentencing Guidelines as the
 22 Commission determines necessary to achieve consist-
 23 ency with other guideline provisions and applicable
 24 law.

1 (b) PROMULGATION.—The Commission shall promul-
2 gate any amendments under subsection (a) promptly so
3 that the amendments take effect on the same date as the
4 amendments made by this Act.

5 **SEC. 9. INCREASED PENALTIES FOR MAJOR DRUG TRAF-**
6 **FICKERS.**

7 (a) INCREASED PENALTIES FOR MANUFACTURE,
8 DISTRIBUTION, DISPENSATION, OR POSSESSION WITH IN-
9 TENT TO MANUFACTURE, DISTRIBUTE, OR DISPENSE.—
10 Section 401(b)(1) of the Controlled Substances Act (21
11 U.S.C. 841(b)) is amended—

12 (1) in subparagraph (A), by striking
13 “\$4,000,000”, “\$10,000,000”, “\$8,000,000”, and
14 “\$20,000,000” and inserting “\$10,000,000”,
15 “\$50,000,000”, “\$20,000,000”, and “\$75,000,000”,
16 respectively; and

17 (2) in subparagraph (B), by striking
18 “\$2,000,000”, “\$5,000,000”, “\$4,000,000”, and
19 “\$10,000,000” and inserting “\$5,000,000”,
20 “\$25,000,000”, “\$8,000,000”, and “\$50,000,000”,
21 respectively.

22 (b) INCREASED PENALTIES FOR IMPORTATION AND
23 EXPORTATION.—Section 1010(b) of the Controlled Sub-
24 stances Import and Export Act (21 U.S.C. 960(b)) is
25 amended—

1 (1) in paragraph (1), by striking “\$4,000,000”,
 2 “\$10,000,000”, “\$8,000,000”, and “\$20,000,000”
 3 and inserting “\$10,000,000”, “\$50,000,000”,
 4 “\$20,000,000”, and “\$75,000,000”, respectively,
 5 and

6 (2) in paragraph (2), by striking “\$2,000,000”,
 7 “\$5,000,000”, “\$4,000,000”, and “\$10,000,000”
 8 and inserting “\$5,000,000”, “\$25,000,000”,
 9 “\$8,000,000”, and “\$50,000,000”, respectively.

10 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS AND RE-**
 11 **QUIRED REPORT.**

12 (a) AUTHORIZATION OF APPROPRIATIONS FOR DE-
 13 PARTMENT OF JUSTICE.—There is authorized to be ap-
 14 propriated to the Department of Justice not more than
 15 \$36,000,000 for each of the fiscal years 2009 and 2010
 16 for the prosecution of high-level drug offenses, of which—

17 (1) \$15,000,000 is for salaries and expenses of
 18 the Drug Enforcement Administration;

19 (2) \$15,000,000 is for salaries and expenses for
 20 the Offices of United States Attorneys;

21 (3) \$4,000,000 each year is for salaries and ex-
 22 penses for the Criminal Division; and

23 (4) \$2,000,000 is for salaries and expenses for
 24 the Office of the Attorney General for the manage-
 25 ment of such prosecutions.

1 (b) AUTHORIZATION OF APPROPRIATIONS FOR DE-
2 PARTMENT OF TREASURY.—There is authorized to be ap-
3 propriated to the Department of the Treasury for salaries
4 and expenses of the Financial Crime Enforcement Net-
5 work (FINCEN) not more than \$10,000,000 for each of
6 fiscal years 2009 and 2010 in support of the prosecution
7 of high-level drug offenses.

8 (c) AUTHORIZATION OF APPROPRIATIONS FOR DE-
9 PARTMENT OF HOMELAND SECURITY.—There is author-
10 ized to be appropriated for the Department of Homeland
11 Security not more than \$10,000,000 for each of fiscal
12 years 2009 and 2010 for salaries and expenses in support
13 of the prosecution of high-level drug offenses.

14 (d) ADDITIONAL FUNDS.—Amounts authorized to be
15 appropriated under this section shall be in addition to
16 amounts otherwise available for, or in support of, the pros-
17 ecution of high-level drug offenses.

18 (e) REPORT OF COMPTROLLER GENERAL.—Not later
19 than 180 days after the end of each of fiscal years 2009
20 and 2010, the Comptroller General shall submit to the
21 Committees on the Judiciary and the Committees on Ap-
22 propriations of the Senate and House of Representatives
23 a report containing information on the actual uses made
24 of the funds appropriated pursuant to the authorization
25 of this section.

1 **SEC. 11. EFFECTIVE DATE.**

2 The amendments made by this Act shall apply to any
3 offense committed on or after 180 days after the date of
4 enactment of this Act. There shall be no retroactive appli-
5 cation of any portion of this Act.

○